Remarks

Reconsideration of this application and declaration of an interference is respectfully requested in view of the foregoing amendments and the following remarks.

The status of the claims is as follows:

Claims 1-10, 12-28, and 30-33 are pending,

Claim 29 has been cancelled, and

All claims have been rejected.

Interference

Interfering Document

While applicants believe that they have in the past complied with CFR 41.202(a)(1), the patent with which applicants believes that certain claims of the present application interfere is U. S. Patent No. 6,672,962, issued January 6, 2004, hereinafter "the '962 patent."

Identification of Interfering Claims

Applicants believe that the following claims of the present application, set out in the claim chart attached hereto as Exhibit A interfere with the claims of the '962 patent.

Proposed Counts

Applicants propose a Count 1 corresponding the claim 14 of the present application and a Count 2 corresponding to claim 15 of the present application as follows:

Count 1 A gun-shaped controller for use with an electronic game device which controls a game development in response to signals supplied from the controller, said gun-shaped controller comprising:

a gun barrel;

a grip to be held by the player;

a trigger lever provided at a portion of the gun-shaped controller manually operable by an index finger of a hand holding the gun-shaped controller at the grip;

means for detecting a position of said gun barrel relative to a display screen; and

a directional key provided at a rear portion of said gun-shaped controller manually operable by a thumb of the hand holding the gun-shaped controller at the grip to supply the game device with signals indicative of directions, wherein an object displayed on the display screen moves in response to the signals indicative of directions under control of the game device.

Count 2 A gun-shaped controller for an electronic amusement device, wherein said controller supplies to said electronic amusement device a controlled variable which is a variation in a position of the controller itself while said controller is to be held and operated by a player during a game play, the controller comprising:

a gun barrel;

a grip to be held by the player;

a trigger lever to be operated by the player;

signal supplying means including a directional key which supplies signals indicative of directions to said amusement device, wherein said directional key is manually operable by the player, and an object displayed on a screen of a display means under control of said amusement device moves in at least one of a plurality of directions in response to said signals; and

means for detecting a position of said gun barrel relative to said screen.

Claims 16-33 of the present application and claims 5-8, 15, 19-22, 26-30, and 41-44 of the '962 patent are all dependent on the claim corresponding to Count 2.

Comparison of Counts to Claims

Even though Counts 1 and 2 are verbatim copies of claims 14 and 15 of the present application, a comparison of claims 14 and 15 is attached hereto as Exhibit B, along with a comparison to claims 1 and 3 of the '962 patent.

Reasons Applicant will prevail

As indicated in the attached copy of the statement under Rule 608 that was filed in July 2004, applicants believe that they invented the subject matter of counts 1 and 2 prior to the date of invention by the applicants of the '962 patent. The two applications

were filed 33 days apart, the present application being the junior application. The present application is based on a patent cooperation treaty application dated June 15, 1999, that is in turn based on a French priority application dated June 16, 1998. The '962 patent is based on a patent cooperation treaty application dated May 13, 1999, with a 35 U.S.C. §371(c)(1, 2, and 4) date of June 19, 1999, and based on multiple Japanese priority applications dated May 13, 1998, October 8, 1998, and March 26, 1999. Two of these priority applications are after the priority application of the present application. Therefore, applicants believe they will be able to show a date of invention prior to the date of invention of the applicants of the '962 patent and therefore believe that they will prevail in the interference.

Support for the Counts in the Present Application

The support for Counts 1 and 2 are set out in Exhibit C attached hereto.

Response to Other Rejections

The examiner has rejected clams 18-21, 25, 27-29, and 33 under 35 U.S.C. §112, first paragraph as containing new matter. It is the examiner's position that Applicants were not in possession of the elements of these claims at the time the application was filed. This rejection is traversed.

With regard to claim 18, see page 8, lines 4-6. "The player also has the possibility to represent the projection of the shooting axis on the display system with cross hairs visible on the game image." It is considered that the cross hair acts as a cursor. Therefore, this is not new matter.

With regard to claim 19, FIG. 1 shows a directional key 13 on an upper part of the grip 10. The surface upon which element 13 is located is an extension of the grip and for this reason, the Examiner's position and rejection of claim 19 is unwarranted and should be withdrawn.

With regard to claim 20, FIG. 1 shows a cable coming from the bottom of the grip 10. Relative to the front of the pistol, the location of the cable exit is rearward and would

be considered by those of ordinary skill to be at the rear of the pistol grip. Furthermore it is contended that the bottom of the grip 10 is the rear of the grip. This is consistent with the definition of "rear" as "the back part of something, the part of something located opposite its front." Merriam-Webster On-Line Dictionary. Therefore, it is contended that claim 20 is properly supported by the specification as filed and there does not include new matter and this rejection should be withdrawn.

Relative to claim 21, applicants have indicated that the control button 14 can be placed in other ergonomic locations. See Page 8, lines 10-12. Placing the button 14 proximate to the key 13 was clearly considered and disclosed. Therefore, this rejection should be withdrawn.

In claim 25, the recoil is disclosed at page 8, lines 1-3. The firing of a "cannonball" is not disclosed in these particular words, but the controller is designed to fire at targets represented on a screen. Therefore, this limitation of firing a virtual bullet or cannonball is disclosed and claim 25 is fully supported.

With regard to claims 27 and 28, at page 6, lines 22-25, the specification discloses moving a virtual actor through a game environment. This supports the limitation of claim 27 relating to a first person actor or character. The game will predetermine a course for the player. The player may choose various alternate routes but the course is defined by the system. There is disclosure of the gun controller as movement of the actor relative to a first person view of that actor. This rejection is therefore improper and should be withdrawn.

In claim 33, these limitations are clearly described in the specification where it is set out that the controller enables the user to move or control the actor as the actor progresses through the game system environment. Therefore, claim 33 is supported and this rejection should be withdrawn.

The examiner has rejected claims 14-33 under 35 U.S.C. §135(b) based on the '962 patent. This rejection is traversed.

Claims 14-33 were filed in the present application in a response filed July 22, 2004 and filed as part of a request for continued examination. Applicants received a

notice of non-compliant response on October 27, 2004 and resubmitted these claims on November 4, 2004. Clearly, these claims were presented to the United States Patent and Trademark Office within one year from the issue date of the '962 patent. Therefore any rejection of claims 14-28 and 30-33 based on 35 U.S.C. §135(b) is unwarranted and should be withdrawn.

The examiner has also rejected claims 14-33 under 35 U.S.C. §102(e) based on the '962 patent. This rejection is not proper. The PCT application upon which the '962 patent is based was written in Japanese and not in English. Therefore, the '962 patent's section 102(e) is not the PCT filing date but the date on which a translation was filed in the United States. Therefore, this rejection is not proper and should be withdrawn.

The examiner has also continued to reject claims 1-10, 12, and 13 under 35 U.S.C. §103(a) based on Yamaguchi ('407) in view of the 3D Zonemaster. This rejection is traversed.

Yamaguchi ('407) does not provide a basis for a hand held game controller that enables the viewer to change direction of the viewpoint based on movement of a controller on the gun. In Yamaguchi, the viewpoint is changed by aiming the gun at various positions on the game screen, see FIG. 6. There is no disclosure or suggestion in Yamaguchi or the integrated controller as claimed.

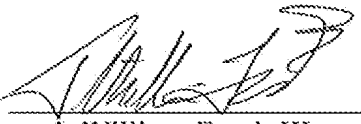
Further the 3D Zonemaster is not an effective document relative to the present invention because all the documents cited by the examiner have a date in 1998. The priority date for the PCT application was June 17, 1998. For this reason, the 3D Zonemaster documents cannot be considered prior art because the present application is entitled to priority under 35 U.S.C. §119 to the French application. Therefore, the applicable date for 35 U.S.C. §102(b) is June 17, 1997. For this reason, the 3D Zonemaster documents are not prior art. Applicant's benefit of this earlier filing date has been perfected as part of the PCT application process and therefore, applicant is entitled to the earlier date for purpose of 35 U.S.C. §102(b). For these reasons, the rejection of claims 1-10, 12 and 13 should be withdrawn.

It is therefore contended that this application has been placed in condition for allowance and that all the requirements for instituting an interference have been satisfied. An early indication of allowable subject matter is requested.

In view of the above remarks, it is now believed that the claims present allowable subject matter. An early indication of allowance and/or a declaration of an interference is respectfully requested.

Respectfully submitted,

McCracken & Frank LLP

By: 

J. William Frank III
Reg. No: 25,626

Dated: December 15, 2006

200 W. Adams, Ste. 2150
Chicago, Illinois 60606
Tel.: (312) 263-4700
Fax.: (312) 263-3990
Customer No. 29471